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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,601	01/15/2002	Richard W. Cline	XILL118505	4647
26389	7590	01/23/2004	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			ROANE, AARON F	
			ART UNIT	PAPER NUMBER
			3739	8

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,601

Applicant(s)

CLINE ET AL.

Examiner

Aaron Roane

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 1-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-58 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention: The species can be characterized by a set of 4 figures.

First we characterize two species by the particular fluorescence video system present, best depicted by figures 1A or 1B. Both of these species is further characterized by the particular multimode light source is present, best depicted by figures 2A or 2B. Next we further subdivide or characterize the above four species by further characterizing them by which camera embodiment is present, best depicted by figures 4A and 4B, or figure 4C or figures 7A and 7B. Finally the above 12 species are further divided or characterized by which beam splitter embodiment is present, best depicted by figures 5A, 5B or 5C. This division or characterization of species yields a final number of species totaling 36 species.

In order to be as explicit as possible, the examiner now enumerates all 36 species with a list of their corresponding figures.

Species #1 is characterized by figures 1A, 2A, 4A, 4B and 5A. Species #2 is characterized by figures 1B, 2A, 4A, 4B and 5A. Species #3 is characterized by figures 1A, 2B, 4A, 4B and 5A. Species #4 is characterized by figures 1B, 2B, 4A, 4B and 5A. Species #5 is

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characterized by figures 1A, 2A, 4C and 5A. Species #6 is characterized by figures 1B, 2A, 4C and 5A. Species #7 is characterized by figures 1A, 2B, 4C and 5A. Species #8 is characterized by figures 1B, 2B, 4C and 5A. Species #9 is characterized by figures 1A, 2A, 7A, 7B and 5A. Species #10 is characterized by figures 1B, 2A, 7A, 7B and 5A. Species #11 is characterized by figures 1A, 2B, 7A, 7B and 5A. Species #12 is characterized by figures 1B, 2B, 7A, 7B and 5A. Species #13 is characterized by figures 1A, 2A, 4A, 4B and 5B. Species #14 is characterized by figures 1B, 2A, 4A, 4B and 5B. Species #15 is characterized by figures 1A, 2B, 4A, 4B and 5B. Species #16 is characterized by figures 1B, 2B, 4A, 4B and 5B. Species #17 is characterized by figures 1A, 2A, 4C and 5B. Species #18 is characterized by figures 1B, 2A, 4C and 5B. Species #19 is characterized by figures 1A, 2B, 4C and 5B. Species #20 is characterized by figures 1B, 2B, 4C and 5B. Species #21 is characterized by figures 1A, 2A, 7A, 7B and 5B. Species #22 is characterized by figures 1B, 2A, 7A, 7B and 5B. Species #23 is characterized by figures 1A, 2B, 7A, 7B and 5B. Species #24 is characterized by figures 1B, 2B, 7A, 7B and 5B. Species #25 is characterized by figures 1A, 2A, 4A, 4B and 5C. Species #26 is characterized by figures 1B, 2A, 4A, 4B and 5C. Species #27 is characterized by figures 1A, 2B, 4A, 4B and 5C. Species #28 is characterized by figures 1B, 2B, 4A, 4B and 5C. Species #29 is characterized by figures 1A, 2A, 4C and 5C. Species #30 is characterized by figures 1B, 2A, 4C and 5C. Species #31 is characterized by figures 1A, 2B, 4C and 5C. Species #32 is characterized by figures 1B, 2B, 4C and 5C. Species #33 is characterized by figures 1A, 2A, 7A, 7B and 5C. Species #34 is characterized by figures 1B, 2A, 7A, 7B and 5C. Species #35 is characterized by figures 1A, 2B, 7A, 7B and 5C. Species #36 is characterized by figures 1B, 2B, 7A, 7B and 5C.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Rodney Tullett (Reg. No. 34,034) on 1/20/2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

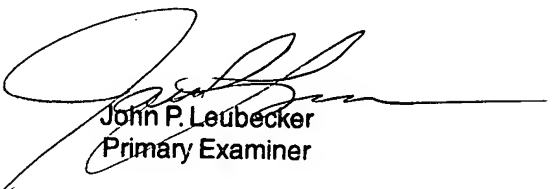
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Roane whose telephone number is (703) 305-7377. The examiner can normally be reached on 9am - 5pm, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

A.R. A.R.  
January 20, 2004

  
John P. Leubecker  
Primary Examiner